

Appl. No. 10/785,464
Atty. Docket No. CM2601MC
Amdt. dated April 13, 2006
Customer No. 27752

REMARKS

Priority

According to the MPEP 201.14(b) II (8th Ed. Including May 2004 revisions), "[w]here the benefit of a foreign filing date based on a foreign application is claimed in a later filed application (i.e., continuation, continuation-in-part, division) or in a reissue application and a certified copy of the foreign application as filed, has been filed in a parent or related application, it is not necessary to file an additional certified copy in the later application." The present application seeks the benefit of a foreign filing date based on the foreign application filed in the European Patent Office as Application No. 01120342.9. The benefit of the foreign filing date was claimed in the present application. A certified copy of the European Patent Office application was filed with U.S. Patent Application No. 10/785,277. U.S. Patent Application No. 10/785,277 and the present case are related because both applications claim priority to the same EPO filing (01120342.9). Therefore, an additional certified copy need not be filed with the present application.

Claim Status

Claims 1-12 are pending in the present application. No additional claims fee is believed to be due.

Claim 1 is amended by inserting the words "continuous and homogeneous" following the words "at least one." Support for the amendment is found on page 13, lines 20-30, and Figure 2. Claim 1 is further amended by inserting the words "wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere." Support for the amendment is found on page 9, lines 25-30.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Kelkenberg in view of Kellenberger et al. and Sackmann et al.

Claims 1-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelkenberg (U.S. Patent No. 5,496,933) in view of Kellenberger et al. (U.S. Patent No. 4,699,823) and Sackmann et al. (U.S. Patent No. 5,635,569). Claim 1 is amended by

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inserting the words "continuous and homogeneous" following the words "at least one." Claim 1 is further amended by inserting the words "wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere."

Kelkenberg, Kellenberger et al., and Sackmann, when combined, fail to teach or suggest a continuous and homogeneous region of chitosan. Kelkenberg, Column 2 lines 25-27, describes the chitosan as a powder. Sackmann et al. (Column 4 lines 61-62) describes the superabsorbent polymer disclosed therein as a powder. Similarly, Kellenberger et al. (Figures 2-6) illustrates the superabsorbent polymer disclosed therein as a powder. The powders of Kelkenberg, Kellenberger et al., and Sackmann et al. are discrete granules and do not form a continuous and homogeneous layer that spans across void spaces and partially covers the constituent materials of the absorbent member.

Kelkenberg, Kellenberger et al., and Sackmann, when combined, also fail to teach or suggest a chitosan material wherein 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere.

The Applicants submit that Claim 1, as amended, is patentable over Kelkenberg in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the rejection of Claim 1, under 35 U.S.C. § 103(a), be withdrawn.

Because Claims 2-12 depend upon Claim 1, the Applicants submit that Claims 2-12 are also allowable over Kelkenberg in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the rejection of Claims 2-12 also be withdrawn.

Response to Double Patenting Rejection

U.S. Patent No. 6,833,487 in view of Kellenberger et al. and Sackmann et al.

Claims 1-12 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,833,487 in view of Kellenberger et al. and Sackmann et al. Claim 1, as amended recites a "continuous and homogeneous" region of chitosan "wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere." The Applicants submit that Claim 1, as amended, is patentable over Claims 1-15 of U.S. Patent No. 6,833,487 in view of Kellenberger et al. and Sackmann because the references, when combined, fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of chitosan material wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere.

Claims 1-15 of U.S. Patent No. 6,833,487 fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of chitosan material

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wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere. Combining the Kellenberger et al. and Sackmann et al. references with Claims 1-15 of U.S. Patent No. 6,833,487 fails to cure the deficiency of Claims 1-15 of U.S. Patent No. 6,833,487. Kellenberger et al. teaches super absorbent polymers and is devoid of any reference to chitosan. Similarly, Sackmann et al. teaches super absorbent polymers and fails to teach or suggest anything with respect to chitosan. The super absorbent polymers of Kellenberger et al. and Sackmann et al. are not chitosan, as claimed in the present application.

The Applicants submit that Claim 1, as amended, is patentable over Claims 1-15 of U.S. Patent No. 6,833,487 in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the double patenting rejection of Claim 1 be withdrawn.

Because Claims 2-12 depend upon Claim 1, the Applicants submit that Claims 2-12 are also allowable over Claims 1-15 of U.S. Patent No. 6,833,487 in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the double patenting rejection of Claims 2-12 be withdrawn.

U.S. Patent No. 6,867,287 in view of Kellenberger et al. and Sackmann et al.

Claims 1-12 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-24 of U.S. Patent No. 6,867,287 in view of Kellenberger et al. and Sackmann et al. Claim 1, as amended recites a "continuous and homogeneous" region of chitosan "wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere." The Applicants submit that Claim 1, as amended, is patentable over Claims 1-24 of U.S. Patent No. 6,867,287 in view of Kellenberger et al. and Sackmann because the references, when combined, fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of chitosan material wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere.

Claims 1-24 of U.S. Patent No. 6,867,287 fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of chitosan material wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere. Combining the Kellenberger et al. and Sackmann et al. references with Claims 1-24 of U.S. Patent No. 6,867,287 fails to cure the deficiency of Claims 1-24 of U.S. Patent No. 6,867,287. Kellenberger et al. teaches super absorbent polymers and is devoid of any reference to chitosan. Similarly, Sackmann et al. teaches super absorbent

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polymers and fails to teach or suggest anything with respect to chitosan. The super absorbent polymers of Kellenberger et al. and Sackmann et al. are not chitosan, as claimed in the present application.

The Applicants submit that Claim 1, as amended, is patentable over Claims 1-24 of U.S. Patent No. 6,867,287 in view of Kellenberger et al. and Sackmann and the Applicants respectfully request that the double patenting rejection of Claim 1 be withdrawn.

Because Claims 2-12 depend upon Claim 1, the Applicants submit that Claims 2-12 are also allowable over Claims 1-24 of U.S. Patent No. 6,867,287 in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the double patenting rejection of Claims 2-12 be withdrawn.

U.S. Patent No. 6,887,564 in view of Kellenberger et al. and Sackmann et al.

Claims 1-12 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-21 of U.S. Patent No. 6,887,564 in view of Kellenberger et al. and Sackmann et al. Claim 1, as amended recites a "continuous and homogeneous" region of chitosan "wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere." The Applicants submit that Claim 1, as amended, is patentable over Claims 1-21 of U.S. Patent No. 6,887,564 in view of Kellenberger et al. and Sackmann because the references, when combined, fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of chitosan material wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere.

Claims 1-21 of U.S. Patent No. 6,887,564 fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of a sprayed on layer of particles of chitosan material wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere. Combining the Kellenberger et al. and Sackmann et al. references with Claims 1-21 of U.S. Patent No. 6,887,564 fails to cure the deficiency of Claims 1-21 of U.S. Patent No. 6,887,564. Kellenberger et al. teaches super absorbent polymers and is devoid of any reference to chitosan. Similarly, Sackmann et al. teaches super absorbent polymers and fails to teach or suggest anything with respect to chitosan. The super absorbent polymers of Kellenberger et al. and Sackmann et al. are not chitosan, as claimed in the present application.

The Applicants submit that Claim 1, as amended, is patentable over Claims 1-21 of U.S. Patent No. 6,887,564 in view of Kellenberger et al. and Sackmann. The

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Applicants respectfully request that the double patenting rejection of Claim 1 be withdrawn.

Because Claims 2-12 depend upon Claim 1, the Applicants submit that Claims 2-12 are also allowable over Claims 1-21 of U.S. Patent No. 6,887,564 in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the double patenting rejection of Claims 2-12 be withdrawn.

U.S. Patent Application No. 11/021,634 in view of Kellenberger et al. and Sackmann et al.

Claims 1-12 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-20 of copending Application 11/021,634 in view of Kellenberger et al. and Sackmann et al. Claim 1, as amended recites a "continuous and homogeneous" region of chitosan "wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere." The Applicants submit that Claim 1, as amended, is patentable over Claims 1-20 of copending Application 11/021,634 in view of Kellenberger et al. and Sackmann because the references, when combined, fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of chitosan material wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere.

Claims 1-20 of copending Application 11/021,634 fail to teach or suggest an absorbent member comprising at least one continuous and homogeneous region of chitosan material wherein at least 1 gram of said chitosan material is soluble in 100 grams of water at 25°C and one atmosphere. Combining the Kellenberger et al. and Sackmann et al. references with Claims 1-20 of copending Application 11/021,634 fails to cure the deficiency of Claims 1-20 of copending Application 11/021,634. Kellenberger et al. teaches super absorbent polymers and is devoid of any reference to chitosan. Similarly, Sackmann et al. teaches super absorbent polymers and fails to teach or suggest anything with respect to chitosan. The super absorbent polymers of Kellenberger et al. and Sackmann et al. are not chitosan, as claimed in the present application.

The Applicants submit that Claim 1, as amended, is patentable over Claims 1-20 of copending Application 11/021,634 in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the double patenting rejection of Claim 1 be withdrawn.

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Because Claims 2-12 depend upon Claim 1, the Applicants submit that Claims 2-12 are also allowable over Claims 1-20 of copending Application 11/021,634 in view of Kellenberger et al. and Sackmann. The Applicants respectfully request that the double patenting rejection of Claims 2-12 be withdrawn.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103(a) and the double patenting rejections. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-12 are respectfully requested.

Respectfully submitted,

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By


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